

FILED

JAN 03 2006

**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND**

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MANUEL RAFAEL,

Defendant.

No. CR 05-0352-DLJ

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO WITHDRAW
STIPULATION FILED DECEMBER
22, 2005**

**Date: January 6, 2006
Time: 10:00 a.m
Court: Hon. D. Lowell Jensen
U.S. District Court**

Defendant Manuel Rafael is scheduled to appear for sentencing on January 6, 2006, for his role in a conspiracy to distribute methamphetamine. The Presentence Report does not specify any quantity of methamphetamine for sentencing purposes. To avoid the need for a contested hearing on the issue of drug quantity, the parties submitted on December 22, 2005, a stipulation to establish the drug quantity.

The parties now agree that the correct quantity attributable to Mr. Rafael for purposes of sentencing is 34.9 grams. The parties have therefore entered into a second, revised stipulation establishing that the drug quantity for sentencing purposes is 34.9 grams, not 56.5 grams, of actual methamphetamine. This stipulation was filed on December 30, 2005.

1 To eliminate confusion from the record, the parties therefore submit this stipulation and
2 proposed order to request that the Court permit the parties to withdraw the previously-filed
3 stipulation (i.e., the stipulation filed on December 22, 2005, setting the quantity at 56.5 grams).

4 The parties apologize for any inconvenience or confusion that has been caused

5 SO STIPULATED.

6 Dated: December 30, 2005

/S/

7 MERRY JEAN CHAN
8 Assistant United States Attorney

9 SO STIPULATED.

10 Dated: December 30, 2005

/S/

11 HILARY A. FOX
12 Attorney for Defendant RAFAEL

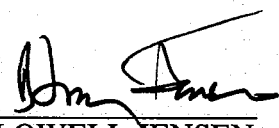
13 I hereby attest that I have on file all holograph signatures indicated by a "conformed"
14 signature (/S/) within this efiled document.

15 ORDER

16 Good cause appearing therefore, and pursuant to the stipulation of the parties, it is the
17 ORDER of this Court that the Stipulation of Drug Quantity for Sentencing filed on December 22,
18 2005, is deemed withdrawn.

19 IT IS SO ORDERED.

20 Dated: Jan 3, 2006

21 
22 D. LOWELL JENSEN
23 United States District Court
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